

REMARKS

Claim 1-15 are pending in the application. Claim 6 has been amended to be placed in independent form. Claim 11 has been cancelled. Applicant is grateful for the indication that claims 14 and 15 are allowable. In view of the foregoing amendments and following remarks, Applicant requests reexamination of the application.

1. Claim Rejection under §112. Claim 10 stands rejected as being indefinite for failing to particularly point out and distinguish the claimed subject matter. In response, Applicant has amended claim 10. Applicant respectfully requests that this rejection be withdrawn.

2. Rejection under §102b. Claims 1 and 2 stand rejected over Sattmann (U.S. Patent 4,143,811). Applicant respectfully traverses this rejection. Independent claim 1 has been amended to recite part of the limitations of original claim 6: a status module comprising at least one indicator which indicates the status of whether the fireplace signal has been sent. This is a highly advantageous combination of features which is not taught or suggested in Sattmann. Claims 2 depends from claim 1 and are therefore allowable for at least the same reasons as claim 1. Applicant therefore respectfully requests that this rejection be withdrawn and the claims be allowed.

Claims 8 and 10-12 stand rejected over Szwartz (U.S. Patent 5,609,522).

Applicant respectfully traverses this rejection. Claim 8 has been amended to recite that the damper pipe receives products of combustion, and the motor is housed in a damper control box remote from the products of combustion. Nothing in Szwartz teaches or suggests this combination of elements, as the motor 48 in Szwartz is clearly mounted on an upper surface 38 of a platform 32, and that platform is exposed to products of combustion. Claim 11 has been cancelled, and Claims 10 and 12 are dependent from claim 8 and therefore allowable for at least the same reasons as claim 8. Applicant therefore respectfully requests that this rejection be withdrawn and the claims be allowed

3. Rejection under §103a. Claims 3 and 4 stand rejected over Sattmann (U.S. Patent 3,985,648) in view of Grostick (U.S. Patent 4,017,024). Applicant respectfully traverses this rejection. Claim 3 and 4 depend from claim 1 which has been amended and are therefore allowable over Sattmann for at least the same reasons as claim 1. Nothing in Grostick teaches or suggests the combination of elements in claims 3 and 4, as amended. Applicant respectfully requests that this rejection be withdrawn.

Claims 5-7 stand rejected over Sattmann (U.S. Patent 3,985,648) in view of Francisco Jr. et al (U.S. Patent 5,555,876). Applicant respectfully traverses this rejection. Claim 5 has been made independent, and amended to clearly recite that the

damper hold open service switch is manually operated, not automatic in response to predetermined conditions as called for in Francisco Jr. et al. A damper control device with a manually operated damper hold open service switch as recited in amended claim 5 is a highly advantageous combination of features which is not taught or suggested in Sattmann or in Francisco Jr. et al.

With regards to claim 6, Francisco Jr. et al discloses a control panel 31, but does not disclose an indicator which indicates the status of whether the fireplace signal has been sent. This diagnostic feature is highly advantageous for troubleshooting and maintenance, as Applicant's claimed invention is adapted to be used in a chimney where the damper control device may be remote from the fireplace. Knowing the status of the fireplace signal greatly simplifies repair and saves labor, time and effort.

Claim 7 is dependent from claim 1 and is therefore allowable for at least the same reasons as claim 1. Applicant therefore respectfully requests that this rejection be withdrawn and the claim be allowed.

Claim 9 stands rejected over Szwartz (U.S. Patent 5,609,522) in view of Pinkerton (U.S. Patent 4,256,257). Applicant respectfully traverses this rejection. Claim 9 is dependent from claim 8 which is allowable over Szwartz for the reasons discussed above. Nothing in Pinkerton teaches or suggests this combination of elements.

Applicant therefore respectfully requests that the rejection be withdrawn and the claims be allowed.

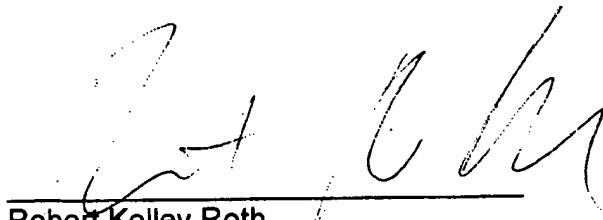
Claim 13 stands rejected over Szwartz (U.S. Patent 5,609,522) in view of Woolfolk (U.S. Patent 4,249,883). Applicant respectfully traverses this rejection. Claim 13 is dependent from claim 8 which is allowable over Szwartz for the reasons discussed above. Nothing in Woolfolk teaches or suggests this combination of elements. Applicant therefore respectfully requests that the rejection be withdrawn and the claim be allowed.

CONCLUSION

The additional citations made of record and not relied upon by the Examiner have been considered by the Applicant. None is seen, either alone or in combination, to teach or suggest the present invention. In view of the foregoing amendments and remarks, Applicant requests withdrawal of the rejection of the claims and allowance of the application.

Respectfully Submitted,

Cory A. Weiss



Robert Kelley Roth
Attorney for Applicants
Miller, Canfield, Paddock and Stone
150 W. Jefferson, Suite 2500
Detroit, MI 48226
313-496-7568
313-496-8454 (fax)
roth@millerkanfield.com

DELIB:2565325.1\109044-00006